



CALIFORNIA EMERGENCY MANAGEMENT AGENCY
LOCAL ASSISTANCE MONITORING BRANCH
3650 SCHRIEVER AVENUE
MATHER, CALIFORNIA 95655
PHONE: (916) 845-8120 FAX: (916) 845-8380

May 22, 2009

Mr. Sean Rabe
Assistant City Manager
City of Sutter Creek
18 Main Street
Sutter Creek, California 95685

SUBJECT: COMPLIANCE REVIEW REPORT
GRANT: FEMA-1646-DR-CA, OES PROJECT #0032, FIPS #005-77392
BROAD STREET STORM DRAIN DIVERSION PROJECT

Dear Mr. Rabe:

The California Emergency Management Agency (CalEMA) (formerly the Governor's Office of Emergency Services (OES)) conducted a compliance field review on April 14 and 15, 2009 for the above-referenced grant. CalEMA met with you, City staff, and Roark Weber, City Engineer, of Weber, Ghio and Associates Inc. (WG&A), the company administering this grant.

The purpose of the review was to determine if your organization complied with applicable laws, regulations, guidelines and policies. The grant was reviewed for compliance with the administrative and fiscal requirements as outlined in the Office of Management and Budget (OMB) Circulars and the Code of Federal Regulations (CFR). Our scope included reviewing fiscal and accounting records for the grant, the December 12, 2008 *Reimbursement Request Form* (for the period July 1, 2008 through November 30, 2008), and its supporting documentation. CalEMA also examined the city's purchasing policy and subcontract records. In general, the CalEMA monitors were pleased with the record keeping for this grant.

Executive Summary:

Grant Type: Hazard Mitigation Grant Program
Review Type: Compliance Field Review
Scope: Fiscal and Administrative
Review Period(s): July 1, 2008 – November 30, 2008

Findings Summary:

1. Proper certification and/or verification regarding Suspension and Debarment was not obtained or documented on subaward.
2. The City entered into an unallowable cost plus a percentage of cost contract for professional services.

Required Corrective Action:

The City must submit a Corrective Action Plan (CAP), which describes by when and how the City ensures that:

- 1) Future contracts funded by federal awards incorporate the appropriate Suspension and Debarment clause as outlined 44 CFR Part 17, Appendix B;
- (F1.4) 2) *City Ordinance No. 324 Chapter 4.29 – Purchases* is amended to include this requirement; and,
- 3) City Staff will document that contractor(s) and/or any subcontractor(s) were verified through the Excluded Parties List System, or that a self-certification statement is included in all future contracts. Verifications can be made at www.epls.gov.

Finding #2: The City entered into an unallowable cost plus a percentage of cost contract for professional services.

Requirement:

44 CFR Part 13, Subpart C, Section 13.36(f)(4) states, "*The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.*"

Observation:

The City's May 21, 2007 *Agreement for Professional Consulting Services* with WG&A (F1.1) includes *Exhibit A, Compensation Rate Schedule*, which states that, "Material and Outside Services will be billed at actual cost plus 15%". WG&A subcontracted with KASL Engineering (F1.3) on February 26, 2008 for a Broad Street Engineering Report. As noted below, KASL submitted three invoices during our test period (July 1, 2008 – November 30, 2008):

- (F2.1) • Invoice # 08266 dated August 25, 2008 for \$4,567.00
- (F2.2) • Invoice # 08276 dated September 22, 2008 for \$448.00
- (F2.3) • Invoice # 08331 dated November 21, 2008 for \$14,253.66
- A June 2008 invoice for \$2,214.

WG&A billed the City for all four above KASL invoices and added 15 percent, which resulted in the City paying \$3,222.40 in unallowable costs. In addition, the City has already received reimbursement from CalEMA for these unallowable costs.

(F2.4)
Required Corrective Action:

A CAP must be submitted which describes by when and how the City will take steps to:

1. Amend the City's existing contract with WG&A to comply with federal contracting guidelines.

Mr. Sean Rabe
May 18, 2009
Page 5

Since there are significant findings included in this report, formal corrective action is required to ensure all issues are addressed in a timely manner. The attached document, "Subrecipient Corrective Action Procedures" provides detailed instructions for developing the CAP. This CAP should be submitted to CalEMA within 30 days from the date of this letter. You are encouraged to work with your assigned Program Manager, Ricardo Castillo, to develop your CAP.

Thank you for the courtesy and cooperation you extended CalEMA in completing this review. If you have any questions about this letter or the enclosures, please contact Don MacMillan at (916) 845-8107, or don.macmillan@calema.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "MBaldwin", followed by a horizontal line extending to the right.

MICHAEL BALDWIN
BRANCH CHIEF

Enclosure

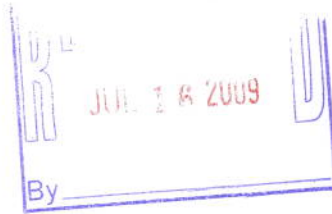
cc: Roark Weber, Sutter Creek City Engineer
Peggy Okabayashi, CalEMA Assistant Secretary
Paul Ransom, CalEMA Hazard Mitigation Branch
Ricardo Castillo, CalEMA Hazard Mitigation Branch
Subrecipient File

City of Sutter Creek

"Still Rich in Beauty"



July 6, 2009



Michael Baldwin, Branch Chief
California Emergency Management Agency
3650 Schriever Avenue
Mather, California 95655

ATTENTION: Don MacMillan



SUBJECT: Compliance Review Report
Grant: FEMA-1646-DR-CA, OES Project #0032, FIPS #005-77392
BROAD STREET STORM DRAIN DIVERSION PROJECT

The City of Sutter Creek here with responds to your May 22, 2009 Compliance Review Report as follows:

FINDING #1

"Proper certification and/or verification regarding Suspension and Debarment was not obtained or documented on WGA contract."

- A. Proper certification and/or verification regarding Suspension and Debarment was obtained and documented herein for both WG&A and KASL Engineering.
- B. The City of Sutter Creek hereby certifies that neither City Engineer Weber, Ghio & Associates, Inc. nor subconsultant KASL Engineering of Citrus Heights is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency. This certification is based upon use of the Excluded Parties List System (EPLS). EPLS was checked by City Engineer's staff on 7/6/09.
- C. Future contracts funded by federal awards will incorporate the appropriate Suspension and Debarment Clause and Certification as outlined in 44 CFR Part 17, Appendix B.

- D. The attached City Manager memorandum to the City Engineer incorporates the appropriate Suspension and Debarment Clause and Certification as outlined in 44 CFR Part 17, Appendix B.
- E. City Ordinance No. 324 Chapter 4.29 – Purchases will be amended to include this requirement.
- F. City staff will document that contractor(s) and/or any subcontractor(s) were verified through the Excluded Parties List System, and that a self-certification statement is included in future Federal contracts. (See attached certification.)

Finding #2

“The City entered into an unallowable cost plus a percentage of cost contract for professional services.”

- A. The City Engineer’s contract is a time and materials contract that was reviewed and approved by the City Manager and City Attorney in May of 2007. This contract is not considered a “cost plus” contract.
- B. The City understands CalEMA’s findings that the City Engineer’s 15% markup for outside services totaling \$3,222.40 is an unallowable cost, and that the City has already received reimbursement from CalEMA for these unallowable costs. The City Engineer will credit the City this amount with its billings.
- C. The City, by the City Manager’s memorandum (attached) amends City’s existing contract with WG&A to delete the 15% markup provision for materials or outside services.
- D. The City will reimburse the \$3,222.40 in unallowable costs by reducing the next request for reimbursement by that amount.
- E. The City Manager’s memorandum of July 6, 2009 includes, albeit late, the required written approval for subcontracting work in excess of \$25,000. WG&A did obtain prior verbal approval before entering into the \$50,000 agreement with KASL Engineering.
- F. The City Manager memorandum of July 6, 2009 includes tasking consultant to administer Federal grant funds and includes an amendment to require that federal laws and regulations are also followed.

Thank you for your review of our Broad Street project. We trust the enclosed information constitutes the required corrective action.

A handwritten signature in blue ink, appearing to read 'Sean Rabe', followed by a horizontal line.

Sean Rabe, Assistant City Manager

Enclosure

cc Rob Duke, City Manager
Roark Weber, City Engineer

#2212/nlm

Response_to_CalEMA_7-06-09

City of Sutter Creek



INTEROFFICE MEMO

TO: Roark Weber, City Engineer
CC: Sean Rabé, Assistant City Manager
FROM: J. Robert Duke, DPA, City Manager
DATE: July 6, 2009
SUBJECT: Broad Street Storm Drain Diversion Project FEMA-1646-DR-CA, OES Project #0032, FIPS #005-77392



To comply with Section 3.3, 6.3, 6.6 of our Agreement for Professional Consulting Services, you are hereby authorized to proceed with the referenced project including additional task of grant administration under the direction of Assistant City Manager Sean Rabe as follows:

Section 1.1, "General Scope of Services," is amended to include grant administration.

Section 3.1, "Compensation," is amended to delete the 15% markup provision for outside service contracts.

Section 6.3, "Subcontracts." In accordance with previous verbal authorization, and as required by this section, the use of:

KASL Engineering
7777 Greenback Lane, Suite 104
Citrus Heights, CA 95610

for "Hydrology Additional Information Request" by FEMA is hereby approved. A Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion shall be provided by all subconsultants.

Section 6.6, "Governing Law," is hereby amended to include 44 CFR, Part 13, Subpart C, Section 13.35 as referenced in the May 22, 2009 CalEMA Compliance Review Report.

J. Robert Duke, DPA
City Manager



CALIFORNIA EMERGENCY MANAGEMENT AGENCY
LOCAL ASSISTANCE MONITORING BRANCH
3650 SCHRIEVER AVENUE
MATHER, CALIFORNIA 95655
PHONE: (916) 845-8120 FAX: (916) 845-8380

July 30, 2009

Mr. Sean Rabe
Assistant City Manager
City of Sutter Creek
18 Main Street
Sutter Creek, CA 95685

SUBJECT: CORRECTIVE ACTION PLAN ACCEPTANCE
GRANT: FEMA-1646-DR-CA, OES PROJECT #0032, FIPS #005-77392
BROAD STREET STORM DRAIN DIVERSION PROJECT

Dear Mr. Rabe:

The California Emergency Management Agency (CalEMA) formerly the Governor's Office of Emergency Services (OES), has reviewed Sutter Creek City's (City) corrective Action Plan (CAP) issued July 6, 2009 submitted in response to CalEMA's May 22, 2009 compliance review report of the above referenced grant.

The City's response indicates the City has taken appropriate action to ensure that all future federal awards will not be made to any party which is debarred or suspended according to 44 CFR Part 13, Subpart C, section 13.35. Also, all federally funded contracts will not include any "plus percentage" language and the \$3,222.40 in unallowable expenditures has been returned to the City. The City will reimburse CalEMA for these funds by reducing their next request for reimbursement. Please place a note on the next *Request for Reimbursement* which indicates the actual expenditures and that the request for reimbursement has been reduced by \$3,222.40. Based on your response, neither of these deficiencies should become an issue with this award or any future federal funding. CalEMA accepts the City's CAP and considers these findings resolved.

Thank you for your diligence in addressing these program deficiencies in a timely and effective manner. If you have any questions about this letter, please contact Don MacMillan at (916) 845-8107, or by electronic mail at don.macmillan@oes.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Lewis".

CATHERINE LEWIS
INTERIM BRANCH CHIEF

cc: Roark Weber, Sutter Creek City Engineer
Peggy Okabayashi, CalEMA Assistant Secretary
Paul Ransom, CalEMA Hazard Mitigation Branch
Ricardo Castillo, CalEMA Hazard Mitigation Branch
Subrecipient File